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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,799	02/20/2004	John W. Peel	59-646	5178

7590 06/01/2007  
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EXAMINER
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BLOUNT, ERIC

ART UNIT	PAPER NUMBER
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2612

MAIL DATE	DELIVERY MODE
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06/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/781,799

Applicant(s)

PEEL ET AL.

Examiner

Eric M. Blount

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-18, and 20-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Status of the Claims

1. Claims 1-33 are pending in the application. Claims 1, 3, 28, and 30 have been amended. Claims 10 and 19 are allowed.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-9, 28-31 and 33 have been considered but are moot in view of the new ground(s) of rejection. Please see rejection below.
3. Applicant's arguments with respect to claims 11-18, 20-27, and 32 have been fully considered but they are not persuasive.

With regards to claims 11-18 and 20-27, applicant argues that a vehicle driver's cabin is not equivalent to a ship's bridge. Examiner never states that a vehicle driver's cabin is **equivalent** to a ship's bridge. Instead, examiner explains why it would have been obvious to the skilled artisan to use the communication methods employed on a land vehicle to communicate information on vehicles traveling by sea. As explained in the rejection, the idea of notifying a vehicle operator of security occurrences that take place would be obvious modifications to any type of vehicle whether it travel on land, sea, or in air. Communicating information to the vehicle operator would allow the operator to take the necessary actions to ensure the safety of vehicle passengers as well as the general public. Please refer to the rejections below, as presented in the previous official action.

With regards to claim 32, applicant argues that the He reference fails to disclose where to place the various types of communications on a shipping container. While He fails to

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specifically disclose that the communication devices are mounted on a top and side of the shipping container, He does not teach away from mounting the devices on the side and top of the shipping container. Instead, He discloses that the devices (various types of communication) can be mounted at various locations on the body of the shipping container. This teaching suggests that the mounting location is variable and includes any surface area of the shipping container. As discussed in the rejection, with this teaching by He on hand, would have tested and mounted the various types of communication devices at positions along the container that provided optimal communication. Please see rejection below.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 19 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 recites the limitation "said sensor" in line 6. There is insufficient antecedent basis for this limitation in the claim. It is noted that applicant introduces "sensors" in line 2, however, applicant does not introduce a "sensor".

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-8, and 33, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al [US 6,954,145 B2] in view of Keillor et al [US 5,917,433].

With regards to **claims 1 and 33**, Nakamura discloses a shipping container system comprising at least one shipping container sensor adapted to be attached to a first shipping container to sense a national security condition of the first shipping container (column 1, lines 14-30 and column 3, lines 33-38).

Nakamura does not disclose communication of the national security condition from the first shipping container to a second shipping container. In an analogous art for monitoring a shipping container, Keillor discloses a first communication adapter (14) associated with a first shipping container; and at least a second communication adapter (14) associated with a second shipping container, said first communication adapter being constructed and arranged to adaptively communicate a condition of the first communication adapter with the second communication adapter, at least one of the communication adapters defining a master device and another of the communication adapters defining a slave device (column 8, lines 57-column 9,

line 14). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Nakamura to include the communication system taught by Keillor because the modification would result in a system that would allow each of a plurality of shipping containers to reliably report a national security condition regardless of its position on the ship. Using the master and slave configuration taught by Keillor would have reduced the cost and complexity of the communication adapters.

As for **claim 2**, the tracking system may comprise at least one of a satellite communication adapter and a radio adapter (Keillor, column 9, lines 15-20).

As for **claim 3**, the shipping container communication adapter connects the first shipping container to an Ad-Hoc network (Keillor column 8, line 55-column 9, line 14). The communication between the first container and the central station or the first container (master) and second or additional containers (slaves) are interpreted as connecting to an Ad-Hoc network.

Regarding **claims 4-6**, neither Nakamura nor Keillor specifically disclose that the Ad-hoc network in the invention is a Bluetooth, UWB, or Wi-Fi network. However, examiner takes official notice that the use of Bluetooth, UWB, or Wi-Fi to establish a communications network was well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Nakamura as modified by Keillor to include Bluetooth, UWB, or Wi-Fi. Any of these communications networks would have been advantageous because of their low-power characteristics, availability, and familiarity to one of ordinary skill in the art. As for the use of a hard-wired network, this was also a well-known communication technique that would have been an obvious modification.

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As for **claim 7**, Keillor discloses that a radio adapter on a shipping container can communicate on a cellular communications network (column 9, lines 15-20).

As for **claim 8**, Keillor discloses a central database to receive at least one shipping container sensor data (column 10, line 65-column 11, line 10 and lines 32-38).

9. Claims 11-18 and 20-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Wagner, as applied to the claims above, and further in view of Woolley et al [U.S. Patent No. 5,774,876].

With regards to **claims 11 and 20**, Nakamura discloses a system of monitoring a national security condition of a shipping container. Wagner discloses a method of distributing data obtained from sensors adaptively attached to a shipping container comprising, establishing a network connection between a first shipping container and a second shipping container. Sensor data will be transferred from a first shipping container to a second shipping container when the first shipping container is unable to transmit data directly to an off ship transmission path and a shipboard system (Wagner, paragraphs 10 and 43). The data transfer will take place whether hazard detection occurs or not.

In an analogous art, Woolley discloses a method of distributing data obtained from sensors adaptively attached to a shipping container comprising establishing a network between a first shipping container, second shipping container, and a vehicle driver cabin. Relevant information is sent through the tags to the driver. The concept of relaying messages would be the same regardless of the transporting vehicle. A truck or train as described in the Woolley reference are both vehicles for transporting shipping containers, likewise, a ship as described in

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the present invention is a vehicle for transporting shipping containers. Receiving a communication in the driver cabin of a truck or train would allow the operator to determine the condition of the containers being shipped and take action if necessary. Similarly, receiving a communication at a ship's bridge would allow the operator of the ship to determine the condition of the shipping containers and take appropriate actions. While the network taught by Woolley is described as being on a land vehicle, one of ordinary skill in the art would have recognized that the concept would be implemented on any shipping vehicle. Whether on land or at sea, it would have been important to monitor the condition of the shipping containers. Hazard detection is considered relevant information that would be communicated to driver (Woolley, column 18, lines 5-22). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Nakamura as modified by Wagner to include a monitoring station (vehicle cabin/ship's bridge) located on the vehicle so that an operator would be able to ascertain hazard conditions and take the appropriate actions for correcting the problem.

As for **claims 12 and 21**, Wagner discloses a means for reforming a network. This means allows the system to add and remove containers from the network (paragraphs 42-44). One of ordinary skill in the art would recognize would have recognized that reforming the network would involve detecting and/or monitoring the path of radio signals between the first and second shipping containers.

As for **claims 13 and 22**, sensor data from a second shipping container can be transferred to at least one of a satellite data path, radio data path, and a shipboard system (Wagner,



paragraph 37). Paragraph 37 shows that sensor data may be relayed to other containers using a radio data path.

As for **claims 14, 16, 23, and 25**, the shipping container communication adapter connects the first shipping container to an Ad-Hoc network (Wagner, paragraph 37 and Figure 2).

Regarding **claims 15, 17, 24, and 26**, none of the aforementioned inventions specifically disclose that the Ad-hoc network in the invention is a Bluetooth, UWB, or Wi-Fi network. However, one of ordinary skill in the art would have recognized that the use of Bluetooth, UWB, or Wi-Fi to establish an ad-hoc communications network was well known in the art. The use of the any one of these low-power communications networks would have been obvious because of their availability and familiarity to one of ordinary skill in the art. As for the use of a hard-wired network, this can be viewed as a matter of design choice.

As for **claims 18 and 27**, Wagner discloses that a radio adapter on a shipping container can communicate on a cellular communications network (paragraphs 51 and 52).

10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Keillor as applied to the claims above, and further in view of He et al [U.S. Patent No. 6,995,667 B2].

With regards to **claim 28**, Nakamura discloses a shipping container system for sensing a condition of a shipping container and at least one item within the shipping container (column 3, lines 25-50). Keillor discloses a communication adapter associated with the first shipping container to adaptively communicate with a communication adapter associated with at least one other shipping container; at least one of the communication adapters defining a master device

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and another of the communication adapters defining a slave device (column 8, lines 55-column 9, line 14). The tracking system may comprise at least one of a satellite communication adapter and a radio adapter (paragraphs 37 and 48). Keillor does not specifically disclose the inclusion of both a satellite and radio adapter.

In an analogous art for tracking and remote monitoring of shipped goods, He shows in column 6, lines 39-45 that satellites and/or radio transmitters may be attached to the shipping containers. Further, He teaches that the communications devices (transmitters) may be presented in a modular form so that they are interchangeable (column 10, line 64 – column 11, line 13). This teaching suggests that a plurality of communications devices may be present on a shipping container. Using the teaching a skilled artisan would have placed appropriate communication means on appropriate locations of each shipping container. Further, using the teaching of He that the communication device is selected based on the application, it would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that if one communication adapter, on a shipping container including plural communication adapters, failed, to use one of the other communication adapters which has not failed. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Nakamura as modified by Wagner to include the modular and interchangeable communication devices taught by He because the modification would allow the shipping containers to reliably transmit information over a long or short range and in different types of environments where one type of communication might be better than another.

As for **claim 29**, Keillor discloses that a radio adapter on a shipping container communicates on a cellular communications network (column 9, lines 15-20).

Regarding **claim 30**, neither Nakamura, Keillor, nor He specifically disclose that a communication adapter in the invention is a Bluetooth, UWB, or Wi-Fi network. However, examiner takes official notice that the use of Bluetooth, UWB, or Wi-Fi to establish a communications network was well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Nakamura as modified by Keillor and He to include Bluetooth, UWB, or Wi-Fi. Any of these communications networks would have been advantageous because of their low-power characteristics, availability, and familiarity to one of ordinary skill in the art.

11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Keillor, further in view of He, as applied to the claim 28 above, and in even further view of Woolley.

Regarding **claim 31**, neither Nakamura, Keillor, nor He specifically discloses communicating with a ship's bridge. In an analogous art, Woolley discloses a method of distributing data obtained from sensors adaptively attached to a shipping container comprising establishing a network between a first shipping container, second shipping container, and a vehicle driver cabin. Relevant information is sent through the tags to the driver (see discussion of claims 11 and 20 above).

12. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over He in view of Wagner.

As for **claim 32**, He discloses a shipping container for use in a shipping container tracking system comprising a shipping container housing, a satellite transmitter on the shipping container housing; or a radio transmitter on a side of the shipping container housing, and a GPS receiver located on the shipping container housing (column 3, lines 28-43). He discloses that the transmitters may be located at various locations on the shipping container. It would have been obvious to one of ordinary skill in the art to place the components at locations that provided optimum communication links. He shows in column 6, lines 39-45 that satellites and/or radio transmitters may be attached to the shipping containers. Further, He teaches that the communications devices (transmitters) may be presented in a modular form so that they are interchangeable (column 10, line 64 – column 11, line 13). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant that each container would be provided with various communication devices located at various positions on the shipping container. A skilled artisan would have recognized (as suggested by He) that the use of communications devices and their location would be determined by the system in which the devices would be used. He does not disclose that the radio transmitter can communicate with a second shipping container.

In an analogous art for tracking and monitoring shipped items, Wagner discloses a system wherein a radio adapter is used to facilitate communication between a first and second shipping container (see discussions above). A skilled artisan would have recognized that communication between a first and second shipping container would be advantageous in systems wherein a plurality of containers are stacked or arranged one on top of the other. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify

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the invention of He to include the communication between containers taught by Wagner because the combination would result in a more effective shipping container tracking and monitoring system that could monitor a plurality of shipping containers. The communication between containers would extend the range of the communication system by allowing containers that are out of range of a monitoring station to have their data relayed through in-range containers to the central monitoring station.

***Allowable Subject Matter***

13. **Claims 9, 10 and 19** are allowed. The following is a statement of reasons for the indication of allowable subject matter:

- a. As for claim 9, the prior art of record fails to sufficiently describe or suggest a shipping container tracking system comprising a central database to receive shipping container sensor data from at least one sensor; said central database verifies the content of the first shipping container by processing a national security condition of the first shipping container against a shipping manifest database.
- a. Regarding claims 10 and 19, the prior art of record fails to sufficiently describe or suggest a shipping container tracking system comprising a line of intermediate communications buoys placed at sea at appropriate locations to at least one of test the container tracking system functionality and to detect anomalies at a safe distance from port facilities. These along with other limitations render the claims allowable over the prior art.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lambright et al [US 7,173,530 B2] discloses a system for tracking shipping containers wherein a manifest database is used to verify the contents of a shipping container (column 6, lines 15-26). Lambright does not disclose that the content of a container is verified by processing a national security condition of the first shipping container against a shipping manifest database.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount  
Examiner  
Art Unit 2612

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**BENJAMIN C. LEE**  
**PRIMARY EXAMINER**